SUPREME COURT OF THE UNITED STATES

No. 75.—October Term, 1967.

Frank Lee, Commissioner of Corrections of Alabama, et al., Appellants, *v.* Caliph Washington et al.	On Appeal From the United States District Court for the Middle District of Alabama.

[March 11, 1968.]

Per Curiam.

This appeal challenges a decree of a three-judge District Court declaring that certain Alabama statutes violate the Fourteenth Amendment to the extent that they require segregation of the races in prisons and jails, and establishing a schedule for desegregation of these institutions. The State's contentions that Rule 23 of the Federal Rules of Civil Procedure, which relates to class actions, was violated in this case and that the challenged statutes are not unconstitutional are without merit. The remaining contention of the State is that the specific orders directing desegregation of prisons and jails make no allowance for the necessities of prison security and discipline, but we do not so read the "Order Judgment and Decree" of the District Court, which when read as a whole we find unexceptionable.

The judgment is affirmed.

SUPREME COURT OF THE UNITED STATES

No. 75.—October Term, 1967.

Frank Lee, Commissioner of Corrections of Alabama, et al., Appellants, *v.* Caliph Washington et al.

On Appeal From the United States District Court for the Middle District of Alabama.

[March 11, 1968.]

Mr. Justice Black, Mr. Justice Harlan, and Mr. Justice Stewart, concurring.

In joining the opinion of the Court, we wish to make explicit something that is left to be gathered only by implication from the Court's opinion. This is that prison authorities have the right, acting in good faith and in particularized circumstances, to take into account racial tensions in maintaining security, discipline, and good order in prisons and jails. We are unwilling to assume that state or local prison authorities might mistakenly regard such an explicit pronouncement as evincing any dilution of this Court's firm commitment to the Fourteenth Amendment's prohibition of racial discrimination.